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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,496	02/21/2002	Lori E. Lucke	032722-651	4689

21839 7590 08/12/2003

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EXAMINER

FREAY, CHARLES GRANT

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/078,496

Applicant(s)

LUCKE ET AL.

Examiner

Charles G Freay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 0203.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 10-18 and 25-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: _____

DETAILED ACTION

The examiner notes that this application is a CIP of earlier US Application Serial Number 09/030/989. The material addressed by the claims of this application was added to the disclosure of parent application at the time of filing this application. Therefore the filing date for this material is February 21, 2002.

Election/Restrictions

Applicant's election without traverse of species 1 in Paper No. 5 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Meador et al (USPN 5,894,273).

Meador et al discloses a blood perfusion system having a blood pump (304), a controller (308) responsive to a monitor signal which is representative of an error condition. The speed of the pump is varied to correct the error condition. As noted from column 24 line 47 through column 26 line 22 alarm signals are set. It is clear that the

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controller in generating a correction signal is correcting the speed of the pump by predetermined RPM's, or percentages of the pump speed. Additionally it is clear that if the error signal is still present the correction will be maintained until the error is zero or within a permissible range. Note that alarm signals are generated (column 25 line 18) and further note the material in claims 1-4.

Claims 1-5, 7-9 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bedington (USPN 5,984,892).

Bedington discloses a blood pumping system having a pump which senses a condition (the bubble content and the flow rate of the blood) and adjusts the rotational speed by a predetermined amount in response to an "alarm" condition. It is noted that the pump speed and the revolutions per minute are the same thing. Further note Figs. 2 and 6 which disclose setting the speed to a predetermined value and adjusting it by predetermined amounts or percentages. There is additionally a display (50) for showing an alarm. The examiner notes that the system injects fluid into a body so it is a perfusion system as set forth in the preamble.

Claims 1-9 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Antaki et al (USPN 5,888,242).

Antaki et al discloses a variable speed blood flow pump which senses and controls the speed of the pump by sensing conditions related to the fluid pressure and flow rate (note the top of column 2) and then adjusts the speed to correct or avoid

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threatening conditions to the patient. There are alarms (26) to alert personal/operators.

The examiner notes step c in particular of independent claims 1, 7 and 8.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zakko, Newell, Camdelon et al, George et al, and Mason pump speed control systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G Freay whose telephone number is (703)308-0639. The examiner can normally be reached on Monday through Friday 10:00 A.M. to 5:30 P.M..

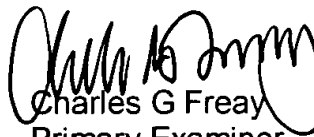
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on (703)308-0102. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9302 for regular communications and (703)872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.


Charles G Freay
Primary Examiner
Art Unit 3746

CGF
August 6, 2003